

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1233

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AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-2-6-23, AS AMENDED BY P.L.7-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection ~~(c)~~ (e).

**(b) As used in this section, "division" refers to the victim services division of the Indiana criminal justice institute.**

~~(b)~~ (c) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

**(d) As used in this section, "trauma informed sexual assault services" refers to:**

- (1) victim centered care;**
- (2) acute medical care; or**
- (3) forensic medical services;**

**provided by advanced medical providers for trauma sustained as a result of sexual assault. Trauma informed sexual assault services address the physical, psychological, and emotional needs of sexual assault victims for the duration of their lifespan.**

~~(c)~~ (e) The sexual assault victim advocate standards and



certification board is established. The board consists of the following twelve (12) members appointed by the governor:

- (1) A member recommended by the prosecuting attorneys council of Indiana.
- (2) A member from law enforcement.
- (3) A member representing a rape crisis center.
- (4) A member recommended by ~~the Indiana Coalition Against Sexual Assault~~ **a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq.**
- (5) A member representing mental health professionals.
- (6) A member representing hospital administration.
- (7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.
- (8) A member who is an employee of the Indiana criminal justice institute.
- (9) A member who is a survivor of sexual violence.
- (10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.
- (11) A member who is an employee of the office of the secretary of family and social services.
- (12) A member who is an employee of the state department of health, office of women's health.

~~(d)~~ **(f)** Members of the board serve a four (4) year term. Not more than seven (7) members appointed under ~~this~~ subsection **(e)** may be of the same political party.

~~(e)~~ **(g)** The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

~~(f)~~ **(h)** The board shall:

- (1) develop standards for certification as a sexual assault victim advocate;
- (2) set fees that cover the costs for the certification process;
- (3) adopt rules under IC 4-22-2 to implement this section; **and**
- ~~(4) administer the sexual assault victims assistance account established by subsection (h); and~~
- ~~(5)~~ **(4)** certify sexual assault victim advocates to provide advocacy services.



~~(g)~~ (i) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

~~(h)~~ (j) The sexual assault victims assistance ~~account~~ **fund** is established within the state general fund. The ~~board~~ **division** shall administer the ~~account~~ **fund** to provide financial assistance to rape crisis centers: for any of the following:

- (1) To establish and maintain rape crisis centers.
- (2) The enhancement of services provided by existing rape crisis centers.
- (3) The development, implementation, and expansion of trauma informed sexual assault services.

Money in the account must be distributed to a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280b et seq. The account

(k) Money in the fund shall be distributed by the division. Before making a distribution, the division shall seek direction from a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. If no statewide nonprofit sexual assault coalition exists, the division may make distributions without seeking direction. The fund consists of:

- (1) amounts transferred to the ~~account~~ **fund** from sexual assault victims assistance fees collected under IC 33-37-5-23;
- (2) appropriations to the ~~account~~ **fund** from other sources;
- (3) fees collected for certification by the board;
- (4) grants, gifts, and donations intended for deposit in the ~~account; fund;~~ and
- (5) interest accruing from the money in the ~~account; fund.~~

~~(i)~~ (l) The expenses of administering the ~~account~~ **fund** shall be paid from money in the ~~account; fund.~~ The ~~board~~ **division** shall may designate not more than ten percent (10%) of the appropriation made each year to the ~~nonprofit corporation~~ **statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention** for program administration. The ~~board~~ **division** may not use more than ten percent (10%) of the money collected from certification fees to administer the certification program.

~~(j)~~ (m) The treasurer of state shall invest the money in the ~~account~~ **fund** not currently needed to meet the obligations of the ~~account~~ **fund** in the same manner as other public money may be invested.



~~(k)~~ (n) Money in the ~~account~~ **fund** at the end of a state fiscal year does not revert to the state general fund.

~~(h)~~ (o) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

SECTION 2. IC 33-37-7-2, AS AMENDED BY P.L.213-2015, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee collected under IC 33-37-5-21 not distributed under



subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance ~~account fund~~ established by ~~IC 5-2-6-23(h)~~ **IC 5-2-6-23(j)** one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child



services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.
- (2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

- (1) The public defense administration fee collected under IC 33-37-5-21.2.
- (2) The judicial salaries fees collected under IC 33-37-5-26.
- (3) The DNA sample processing fees collected under IC 33-37-5-26.2.
- (4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

- (1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.
- (2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

- (1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or



probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-33 (before its expiration on July 1, 2017).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

**SECTION 3. An emergency is declared for this act.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1233 — CC 1**

